

09/763,917

REMARKS

Claims 1, 3-17 and 19-30 are pending in this Application, of which claims 1, 19-20, and 23-30 are independent. Claims 1 and 19-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 3-17 are dependent upon claim 1 and are rejected for all the reasons thereupon. In particular, the Examiner asserts that the limitation "not readily visible to the viewer" is vague and indefinite.

In response to the Examiner's rejections, Applicants participated in a call with the Examiner to discuss the appropriateness of claim language that related to distortion visible to humans or not. Although no specific language was agreed upon, Applicants believe that they understand the Examiner's rationale.

In an attempt to identify language that has historically been deemed definite, Applicants undertook a search of the issued patents available for electronic searching and tried various word combinations that relate to the concept of claim elements that involve visibility in some manner. One phrase that occurred in many presently allowed claims includes some variation of the terms "perceptible", "imperceptible", "visually perceptible", and/or "humanly perceptible". Thus, Applicants have amended the claims in such a way as to replace the offending phrase "not readily visible" with the phrase "visually imperceptible".

Applicants do not rely solely on the fact that this phrase has been included in allowed claims in the past because such reliance is not dispositive to the question, although it is suggestive that such language is definite as meant under the second paragraph of 35 U.S.C. 112. Instead, Applicants urge that this phrase sets an objective standard, rather than a variable one, regarding whether or not the distortion is perceptible. Additionally, the present specification helps explain what levels of

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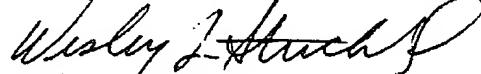
distortion are perceptible and what levels are not perceptible. Thus, Applicants urge that the amended claims, when interpreted in light of the specification by a reasonably skilled artisan in this field, will understand and appreciate the scope of the present claims thereby rendering them definite for the purposes of 35 U.S.C. 112, second paragraph.

In view of the above remarks and amendments, Applicants respectfully solicit the reconsideration and withdrawal of the rejection under 35 U.S.C. 112 of claims 1, 3-17, and 19-30.

In view of the above remarks, Applicants believe that all claims in this application are in condition for allowance and passage of this case to issue is respectfully requested. If the Examiner has any questions regarding this application or the response, a telephone call to the undersigned attorney would be appreciated to expedite prosecution of this case.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account.

Respectfully submitted,  
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